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DEPARTMENT OF STATE
Ltr/P
DEC 8 - 1947
TREATY BRANCH
OFFICE OF THE LEGAL ADVISER

Control 1322

December 5, 1947
6 p.m.

Com Treaty. Quite questionable whether interpretation UCOTL applicable laws and regulations UNLUCOTL contained in antepenultimate para EmBTEL 3755 (Nov 20) should be advanced. However, concluding portions such para appear suggest acceptable solution withdrawal issue. EMB therefore authorized include following para in Additional Protocol:

"UCOTL Whenever exchange difficulties necessitate that pursuant to Art XXIV, para 1(e), the ITALGOVT regulate withdrawals provided for in Art V, para 2, the ITALGOVT may give priority to applications made by nationals, corporations and associations of the US to withdraw compensation received on account of property acquired on or before December 8, 1934, or, if subsequently acquired:

(a) In the case of immovable property, if the owner at the time of acquisition had permanent residence outside Italy, or, if a corporation or association, had its center of management outside Italy;

(b) in

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(b) in the case of shares of stock, if at the time of acquisition ITAL laws and regulations permitted such shares to be traded outside Italy;

(c) in the case of bank deposits, if carried on free account at the time of taking;

(d) in any case, if the property was acquired through importing foreign exchange, goods or services into Italy, or through reinvestments of profits or accrued interest from such imports whenever made.

QUOTE The ITALGOVT undertakes to grant every facility to assist applicants in establishing their status for the purposes of this paragraph; and to accept evidence of probative value as establishing, in the absence of preponderant evidence to the contrary, a priority claim UNQUOTE.

In view EMB'S more intimate acquaintance with problem, EMB may, to extent clear desirable, consider improvements in details foregoing proposal and suggest same to ITALS subject to DEPT confirmation.

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EMB particularly authorized insert date later than December, 1934 if acceptable. It is noted that proposal avoids specific mention currency original investment; and preserves ultimate right of everyone to dollars, regardless of how investment originally made.

Prevailing rate concept first para URT L, if suitably interpreted and defined, may afford basis settlement exchange rate issue. EMB accordingly authorized include following paragraph in Additional Protocol:

"QUOTE Whenever a multiple exchange rate system is in effect, the rate of exchange which shall be applicable for purposes of Art. V, para 2, shall be a rate not less favorable than the arithmetic mean of the rates applied to that 50 percent (fifty percent) by value of all exchange transactions which was made at the most favorable rates during the calender month preceding the month in which the property was taken UNQUOTE.

EMB authorized if necessary to raise percentage figure to as high as 75 (seventy-five).

LOVETT
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